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PART 227—DELEGATION TO STATES

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Authority: 30 U.S.C. 1735; 30 U.S.C. 196; Pub L. 102–154.

Source: 62 FR 43084, Aug. 12, 1997, unless otherwise noted.

Delegation of MMS Royalty Functions



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§ 227.1 What is the purpose of this part?



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This part provides procedures to delegate Federal royalty management functions to States under section 205 of the Federal Oil and Gas Royalty Management Act of 1982 (the Act), 30 U.S.C. 1735, as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, Pub. L. 104–185, August 13, 1996, as corrected by Pub. L. 104–200. This part also provides procedures to delegate only audit and investigation functions to States under Pub. L. 102–154 for solid mineral leases, geothermal leases and leases subject to section 8(g) of the Outer Continental Shelf Lands Act, 43 U.S.C. 1337(g). This part does not apply to any inspection or enforcement responsibilities of the Bureau of Land Management for onshore leases or the MMS Offshore Minerals Management program for leases on the Outer Continental Shelf.

§ 227.10 What is the authority for information collection?



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(a) The information collection requirements contained in this part have been approved by Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 1010–0088. We will use the information collected to review and approve delegation proposals from States wishing to perform royalty management functions.

(b) Public reporting burden is estimated as follows. MMS estimates 400 annual burden hours per function for each State performing the delegated functions. The Federal Government will reimburse some of these costs as provided by statute. However, States could incur additional start-up costs, such as purchasing equipment necessary to perform a delegated function, that may not be reimbursable. MMS estimates that, if applicable, each payor or reporter would spend 50 burden hours annually coordinating their interactions and communications among the several States and with MMS. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing burden, to the Information Collection Clearance Officer, Minerals Management Service, 1849 C Street, NW., Washington, DC 20240; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Interior Department, OMB Control Number 1010–0088, 725 17th Street, NW., Washington, DC 20503.

§ 227.101 What royalty management functions may MMS delegate to a State?



(a) If there are oil and gas leases subject to the Act on Federal lands within your State, MMS may delegate the following royalty management functions for all such Federal oil and gas leases to you under this part:

- (1) Receiving and processing production or royalty reports;
- (2) Correcting erroneous report data; and
- (3) Performing automated verification.

(b) If there are oil and gas leases subject to the Act on Federal lands within your State, MMS may delegate the following royalty management functions for some or all of the Federal oil and gas leases to you under this part:

- (1) Conducting audits and investigations; and
 - (2) Issuing demands, subpoenas, and orders to perform restructured accounting, including related notices to lessees or their designees, and entering into tolling agreements under section 115(d)(1) of the Act, 30 U.S.C. 1725(d)(1).
- (c) If there are oil and gas leases offshore of your State subject to section 8(g) of the Outer Continental Shelf Lands Act, 43 U.S.C. 1337 (g), or solid mineral leases or geothermal leases on Federal lands within your State, MMS may delegate authority to conduct audits and investigations for some or all such Federal leases.

[64 FR 36784, July 8, 1999]

§ 227.102 What royalty management functions will MMS not delegate?



This section lists the principal royalty management functions that MMS will not delegate to a State. MMS will not delegate to a State the following functions:

- (a) MMS must collect all moneys received from sales, bonuses, rentals, royalties, civil penalties, assessments and interest. MMS also must collect any moneys a lessee or its designee pays because of audits or other actions of a delegated State;
- (b) MMS must compare all cash and other payments it receives with payments shown on royalty reports or other documents, such as bills, to reconcile payor accounts. MMS also must disburse all appropriate moneys to States and other revenue recipients, including refunds and interest owed to lessees and their designees;
- (c) The Department of the Interior will receive, process, and decide all administrative appeals from demands or other orders issued to lessees, their designees, or any other person, including demands or orders a delegated State issues;
- (d) Only MMS may take enforcement actions other than issuing demands, subpoenas and orders to perform restructured accounting. MMS or the appropriate Federal agency will issue notices of non-compliance and civil penalties, collect debts, write off delinquent debts, pursue litigation, enforce subpoenas, and manage any alternative dispute resolution. MMS will conduct, coordinate and approve any settlement or other compromise of an obligation that a lessee or its designee owes;

(e) MMS will decide all valuation policies, including issuing valuation regulations, determinations, and guidelines, and interpreting valuation regulations; and

(f) MMS may reserve additional authorities and responsibilities not included in paragraphs (a) through (f) of this section.

Delegation Proposals



§ 227.103 What must a State's delegation proposal contain?



If you want MMS to delegate royalty management functions to you, then you must submit a delegation proposal to the MMS Associate Director for Minerals Revenue Management. MMS will provide you with technical assistance and information to help you prepare your delegation proposal. Your proposal must contain the following minimum information:

(a) The name and title of the State official authorized to submit the delegation proposal and execute the delegation agreement;

(b) The name, address, and telephone number of the State contact for the proposal;

(c) A copy of the legislation, State Attorney General opinion or other document that:

(1) States which State entity or entities are responsible for performing delegated functions, and if more than one entity is delegated such responsibility, the position of the highest ranking State official having ultimate authority over the collection of royalties from leases on Federal lands within the State;

(2) Demonstrates the State's authority to:

(i) Accept a delegation from MMS; and

(ii) Receive State or Federal appropriations to perform delegated functions;

(d) The date you propose to begin performing delegated functions;

(e) A detailed statement of the delegable functions that you propose to perform. For each function, describe the resources available in your State to perform each function, the procedures you will use to perform each function, and how you will assure that you will meet all Federal laws, lease terms, regulations and relevant performance standards. As evidence that you have or will have the resources to perform each delegable function, provide the following information:

(1) A description of the personnel you have available to perform delegated functions, including:

(i) How many persons you will assign full-time and part-time to each delegated function;

(ii) The technical qualifications of the key personnel you will assign to each function, including academic field and degree, professional credentials, and quality and amount of experience with similar functions; and

(iii) Whether these persons are currently State employees. If not, explain how you propose to hire these persons or obtain their services, and when you expect to have those persons available to perform delegated functions;

(2) A description of the facilities you will use to perform delegated functions, including:

(i) Whether you currently have the facilities in which you will physically locate the personnel and equipment you will need to perform the functions you propose to assume. If not, how you propose to acquire such facilities, and when you expect to have such facilities available; and

(ii) How much office space is available;

(3) Describe the equipment you will use to perform delegated functions, including:

(i) Hardware and software you will use to perform each delegated function, including equipment for:

(A) Document processing, including compatibility with MMS automated systems, electronic commerce capabilities, and data storage capabilities;

(B) Accessing reference data;

(C) Contacting production or royalty reporters;

(D) Issuing demands;

(E) Maintaining accounting records;

(F) Performing automated verification;

(G) Maintaining security of confidential and proprietary information; and

(H) Providing data to other Federal agencies;

(ii) Whether you currently have the equipment you will need to perform the functions you propose to assume. If not, how you propose to acquire such equipment and when you expect to have such equipment available;

(f) Your estimates of the costs to fund the following resources necessary to perform the delegation:

(1) Personnel, including hiring, employee salaries and benefits, travel and training;

(2) Facilities, including acquisition, upgrades, operation, and maintenance; and

(3) Equipment, including acquisition, operation, and maintenance;

(g) Your plans to fund the resources under paragraph (f) of this section, including any items you will ask MMS to fund under the delegation agreement;

(h) A statement identifying any areas where State law, including State appropriation law, may limit your ability to perform delegated functions, and an explanation of how you propose to remove any such limitation;

(i) A statement that in accordance with section 203 of the Act (30 U.S.C. 1733) persons who have access to information received under delegated functions are subject to the same provisions of law regarding confidentiality and disclosure of that information as Federal employees. Applicable laws include the Freedom of Information Act (FOIA), the Trade Secrets Act, and relevant Executive Orders. In addition, your statement must acknowledge that all documents produced, received, and maintained as part of any delegation functions are agency records for purposes of FOIA. Therefore, persons who have access to information received under delegated functions may not use such information or provide such information to any other person, including State personnel, for purposes other than performing delegated functions. However, this limitation does not apply if the person submitting the information consents in writing to its use for other State purposes.

[62 FR 43084, Aug. 12, 1997, as amended at 67 FR 19112, Apr. 18, 2002]

§ 227.104 What will MMS do when it receives a State's delegation proposal?



When MMS receives your delegation proposal, it will record the receipt date. MMS will notify you in writing within 15 business days whether your proposal is complete. If it is not complete, MMS will identify any missing items §227.103 requires. Once you submit all required information, MMS will notify you of the date your application is complete.

Hearing Process



§ 227.105 What are the hearing procedures?



After MMS notifies you that your delegation proposal is complete, MMS will schedule a hearing on your proposal, if MMS determines a hearing is appropriate, as follows:

- (a) The MMS Director will appoint a hearing official to conduct one or more public hearings for fact finding regarding your ability to assume the delegated functions requested. The hearing official will not decide whether to approve your delegation request;
- (b) The hearing official will contact you about scheduling a hearing date and location;
- (c) The MMS will publish notice of the hearing in the Federal Register and other appropriate media within your State;
- (d) MMS will publish notice of the proposal in the Federal Register. MMS will also post the proposal on the MMS Website, and upon request, MMS will send a copy of the delegation proposal to the trade associations to distribute to their members, as necessary;
- (e) At the hearing, you will have an opportunity to present testimony and written information in support of your proposal;
- (f) Other persons may attend the hearing and may present testimony and written information for the record;
- (g) MMS will record the hearing;
- (h) MMS will maintain a record of all documents related to the proposal process;
- (i) After the hearing, MMS may require you to submit additional information in support of your delegation proposal.

Delegation Process



§ 227.106 What statutory requirements must a State meet to receive a delegation?



The MMS Director will decide whether to approve your delegation request and will ask the Secretary of the Interior to concur in the decision. That decision is solely within the MMS Director's and the Secretary's discretion. The MMS Director's decision, which the Secretary concurs in, is the final decision for the Department of the Interior. The MMS Director may approve a State's request for delegation only if, based upon the State's delegation proposal and the hearing record, the MMS Director finds that:

- (a) It is likely that the State will provide adequate resources to achieve the purposes of the Act;
- (b) The State has demonstrated that it will effectively and faithfully administer the MMS regulations under the Act in accordance with subsections (c) and (d) of section 205 of the Act;
- (c) Such delegation will not create an unreasonable burden on any lessee;
- (d) The State agrees to adopt standardized reporting procedures MMS prescribes for royalty and production accounting purposes, unless the State and all affected parties (including MMS) otherwise agree;
- (e) The State agrees to follow and adhere to regulations and guidelines MMS issues under the mineral leasing laws regarding valuation of production; and
- (f) Where necessary for a State to carry out and enforce a delegated activity, the State agrees to enact such laws and promulgate such regulations as are consistent with relevant Federal laws and regulations.

§ 227.107 When will the MMS Director decide whether to approve a State's delegation proposal?



The MMS Director will decide whether to approve your delegation proposal within 90 days after your delegation proposal is considered complete under §227.104. MMS may extend the 90-day period with your written consent.

§ 227.108 How will MMS notify a State of its decision?



MMS will notify you in writing of its decision on your delegation proposal. If MMS approves your delegation proposal, then MMS will hold discussions with you to develop a delegation agreement detailing the functions that you will perform, the standards and requirements you must comply with to perform those functions, and any required transition period.

§ 227.109 What if the MMS Director denies a State's delegation proposal?



If the MMS Director denies your delegation proposal, MMS will state the reasons for denial. MMS also will inform you in writing of the conditions you must meet to receive approval. You may submit a new delegation proposal at any time following a denial.

§ 227.110 When and for how long are delegation agreements effective?



(a) Delegation agreements are effective for 3 years from the date the MMS Director signs the delegation agreement. However, during the development of the State's delegation proposal under §227.108 of this part, MMS, the delegated State, and any other affected person will determine an appropriate transition period for lessees and their designees to modify their systems to comply with any new requirements under a delegation agreement. MMS will publish notice of the effective date of a State's delegation agreement in the Federal Register and that notice will inform lessees and their designees of any transition period. MMS also will post the proposals on the MMS Website at www.mms.gov, and upon request, will send a copy of the delegation proposals to trade associations to distribute to their members.

(b) You may ask MMS to renew the delegation for an additional 3 years no less than 6 months before your 3-year delegation agreement expires. You must submit your renewal request to the MMS Associate Director for Minerals Revenue Management as follows:

(1) If you do not want to change the terms of your delegation agreement for the renewal period, you need only ask to extend your existing agreement for the 3-year renewal period. MMS will not schedule a hearing unless you request one;

(2) If you want to change the terms of your delegation agreement for the renewal period, you must submit a new delegation proposal under this part.

(c) The MMS Director may approve your renewal request only if MMS determines that you are meeting the requirements of the applicable standards and regulations. If the MMS Director denies your renewal request, MMS will state the reasons for denial. MMS also will inform you in writing of the conditions you must meet to receive approval. You may submit a new renewal request any time after denial.

(d) After the 3-year renewal period for your delegation agreement ends, if you wish to continue performing one or more delegated functions, you must request a new delegation agreement from MMS under this part. MMS will schedule a hearing on your request, if MMS determines a hearing is appropriate. As part of the decision whether to approve your request for a new delegation, the MMS Director will consider whether you are meeting the requirements of the applicable standards and regulations under your existing delegation agreement.

(e) If you do not request a hearing under paragraphs (b)(1) or (d) of this section, any other affected person may submit a written request for a hearing under those paragraphs to the MMS Associate Director for Minerals Revenue Management.

[62 FR 43084, Aug. 12, 1997, as amended at 67 FR 19112, Apr. 18, 2002]

Existing Delegations



§ 227.111 Do existing delegation agreements remain in effect?



This section explains your options if you have a delegation agreement in effect on the effective date of this regulation.

(a) If you do not want to perform any royalty management functions in addition to those authorized under your existing agreement, you may continue your existing agreement until its expiration date. Before the agreement expires, if you wish to continue to perform one or more of the delegated functions you performed under the expired agreement, you must request a new delegation agreement meeting the requirements of this part and the applicable standards.

(b) If you want to perform royalty management functions in addition to those authorized under your existing agreement, you must request a new delegation agreement under this part.

(c) MMS may extend any delegation agreement in effect on the effective date of this regulation for up to

3 years beyond the date it is due to expire.

Compensation



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§ 227.112 What compensation will a State receive to perform delegated functions?



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You will receive compensation for your costs to perform each delegated function subject to the following conditions:

- (a) Compensation for costs is subject to Congressional appropriations;
- (b) Compensation may not exceed the reasonably anticipated expenditures that MMS would incur to perform the same function;
- (c) The cost for which you request compensation must be directly related to your performance of a delegated function and necessary for your performance of that delegated function;
- (d) At a minimum, you must provide vouchers detailing your expenditures quarterly during the fiscal year. However, you may agree to provide vouchers on a monthly basis in your delegation agreement;
- (e) You must maintain adequate books and records to support your vouchers;
- (f) MMS will pay you quarterly or monthly during the fiscal year as stated in your delegation agreement; and
- (g) MMS may withhold compensation to you for your failure to properly perform any delegated function as provided in section 227.801 of this part.

States' Responsibilities To Perform Delegated Functions



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§ 227.200 What are a State's general responsibilities if it accepts a delegation?



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For each delegated function you perform, you must:

- (a) Operate in compliance with all Federal laws, regulations, and Secretarial and MMS determinations and orders relating to calculating, reporting, and paying mineral royalties and other revenues. You must seek information or guidance from MMS regarding new, complex, or unique issues. If MMS determines that written guidance or interpretation is appropriate, MMS will provide the guidance or interpretation in writing to you and you must follow the interpretation or guidance given;
- (b) Comply with Generally Accepted Accounting Principles (GAAP). You must:
 - (1) Provide complete disclosure of financial results of activities;
 - (2) Maintain correct and accurate records of all mineral-related transactions and accounts;

- (3) Maintain effective controls and accountability;
 - (4) Maintain a system of accounts that includes a comprehensive audit trail so that all entries may be traced to one or more source documents; and
 - (5) Maintain adequate royalty and production information for royalty management purposes;
- (c) Assist MMS in meeting the requirements of the Government Performance and Results Act (GPRA) as well as assisting in developing and endeavoring to comply with the MMS Strategic Plan and Performance Measurements;
- (d) Maintain all records you obtain or create under your delegated function, such as royalty reports, production reports, and other related information. You must maintain such records in a safe, secure manner, including taking appropriate measures for protecting confidential and proprietary information and assisting MMS in responding to Freedom of Information Act requests when necessary. You must maintain such records for at least 7 years;
- (e) Provide reports to MMS about your activities under your delegated functions. MMS will specify in your delegation agreement what reports you must submit and how often you must submit them. At a minimum, you must provide periodic statistical reports to MMS summarizing the activities you carried out, such as:
- (1) Production and royalty reports processed;
 - (2) Erroneous reports corrected;
 - (3) Results of automated verification findings;
 - (4) Number of audits performed; and
 - (5) Enforcement documents issued.
- (f) Assist MMS in maintaining adequate reference, royalty, and production databases as provided in the *Standards* issued under §227.201 of this part and the delegation agreement;
- (g) Develop annual work plans that:
- (1) Specify the work you will perform for each delegated function; and
 - (2) Identify the resources you will commit to perform each delegated function;
- (h) Help MMS respond to requests for information from other Federal agencies, Congress, and the public;
- (i) Cooperate with MMS's monitoring of your delegated functions; and
- (j) Comply with the *Standards* as required under §227.201 of this part.

§ 227.201 What standards must a State comply with for performing delegated functions?



- (a) If MMS delegates royalty management functions to you, you must comply with the *Standards*. The *Standards* explain how you must carry out the activities under each of the delegable functions.
- (b) Your delegation agreement may include additional standards specifically applicable to the functions

delegated to you.

(c) Failure to comply with your delegation agreement, the *Standards*, or any of the specific standards and requirements in the delegation agreement, is grounds for termination of all or part of your delegation agreement, or other actions as provided under §§227.801 and 227.802.

(d) MMS may revise the *Standards* and will provide notice of those changes in the Federal Register. You must comply with any changes to the *Standards*.

§ 227.300 What audit functions may a State perform?



An audit consists of an examination of records to verify that royalty reports and payments accurately reflect actual production, sales, revenues and costs, and compliance with Federal statutes, regulations, lease terms, and MMS policy determinations.

(a) If you request delegation of audit functions, you must perform at least the following:

- (1) Submitting requests for records;
- (2) Examining royalty and production reports;
- (3) Examining lessee production and sales records, including contracts, payments, invoices, and transportation and processing costs to substantiate production and royalty reporting;
- (4) Providing assistance to MMS for appealed demands or orders, including preparing field reports, performing remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

(b) If necessary for a particular audit, you may also perform any of the following:

- (1) Issuing engagement letters;
- (2) Arranging for entrance conferences;
- (3) Scheduling site visits; and
- (4) Issuing record releases and audit closure letters; and
- (5) Holding closeout conferences.

§ 227.301 What are a State's responsibilities if it performs audits?



If you perform audits you must:

- (a) Comply with the *MMS Audit Procedures Manual* and the *Government Auditing Standards* issued by the Comptroller General of the United States;
- (b) Follow the MMS Annual Audit Work Plan and 5-year Audit Strategy, which MMS will develop in consultation with States having delegated audit authority;
- (c) Agree to undertake special audit initiatives MMS identifies targeting specific royalty issues, such as valuation or volume determinations;

(d) Prepare, construct, or compile audit work papers under the appropriate procedures, manuals, and guidelines;

(e) Prepare and submit MMS Audit Work Plans. You may modify your Audit Work Plans with MMS approval; and

(f) Comply with procedures for appealed demands or orders, including meeting timeframes, supplying information, and using the appropriate format.

§ 227.400 What functions may a State perform in processing production reports or royalty reports?



Production reporters or royalty reporters provide production, sales, and royalty information on mineral production from leases that must be collected, analyzed, and corrected.

(a) If you request delegation of either production report or royalty report processing functions, you must perform at least the following:

(1) Receiving, identifying, and date stamping production reports or royalty reports;

(2) Processing production or royalty data to allow entry into a data base;

(3) Creating copies of reports by means such as electronic imaging;

(4) Timely transmitting production report or royalty report data to MMS and other affected Federal agencies as provided in your delegation agreement and the *Standards*;

(5) Providing training and assistance to production reporters or royalty reporters;

(6) Providing production data or royalty data to MMS and other affected Federal agencies; and

(7) Providing assistance to MMS for appealed demands or orders, including meeting timeframes, supplying information, using the appropriate format, performing remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

(b) If you request delegation of either production report or royalty report processing functions, or both, you may perform the following functions:

(1) Granting exceptions from reporting and payment requirements for marginal properties; and

(2) Approving alternative royalty and payment requirements for unit agreements and communitization agreements.

(c) You must provide MMS with a copy of any exceptions from reporting and payment requirements for marginal properties and any alternative royalty and payment requirements for unit agreements and communitization agreements you approve.

§ 227.401 What are a State's responsibilities if it processes production reports or royalty reports?



In processing production reports or royalty reports you must:

- (a) Process reports accurately and timely as provided in the *Standards* and your delegation agreement;
- (b) Identify and resolve fatal errors to use in subsequent error correction that the State or MMS performs;
- (c) Accept multiple forms of electronic media from reporters, as MMS specifies;
- (d) Timely transmit required production or royalty data to MMS and other affected Federal agencies;
- (e) Access well, lease, agreement, and reporter reference data from MMS and provide updated information to MMS;
- (f) For production reports, maintain adequate system software edits to ensure compliance with the provisions of 30 CFR part 216, the production reporter handbook, any interagency memorandums of understanding to which MMS is a party, and the *Standards*;
- (g) For royalty reports, maintain adequate system software edits to ensure compliance with the provisions of 30 CFR part 218, the *Oil and Gas Payor Handbook, Volume II*, "Dear Payor" letters, and the *Standards*; and
- (h) Comply with the procedures for appealed demands or orders, including meeting timeframes, supplying information, and using the appropriate format.

[62 FR 43084, Aug. 12, 1997, as amended at 67 FR 19112, Apr. 18, 2002]

§ 227.500 What functions may a State perform to ensure that reporters correct erroneous report data?



Production data and royalty data must be edited to ensure that what is reported is correct, that disbursement is made to the proper recipient, and that correct data are used for other functions, such as automated verification and audits. If you request delegation of error correction functions for production reports or royalty reports, or both, you must perform at least the following:

- (a) Correcting all fatal errors and assigning appropriate confirmation indicators;
- (b) Verifying whether production reports are missing;
- (c) Contacting production reporters or royalty reporters about missing reports and resolving exceptions;
- (d) Documenting all corrections made, including providing production reporters or royalty reporters with confirmation reports of any changes;
- (e) Providing training and assistance to production reporters or royalty reporters;
- (f) Issuing notices, orders to report, and bills as needed, including, but not limited to, imposing assessments on a person who chronically submits erroneous reports; and
- (g) Providing assistance to MMS for appealed demands or orders, including preparing field reports, performing remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

§ 227.501 What are a State's responsibilities to ensure that reporters correct erroneous data?



To ensure the correction of erroneous data, you must:

- (a) Ensure compliance with the provisions of 30 CFR parts 216 and 218, any applicable handbook specified under 30 CFR 227.401 (f) and (g), interagency memorandums of understanding to which MMS is a party, and the *Standards*;
- (b) Ensure that reporters accurately and timely correct all fatal errors as designated in the *Standards*. These errors include, for example, invalid or incorrect reporter/payor codes, incorrect lease/agreement numbers, and missing data fields;
- (c) Submit accepted and corrected lines to MMS to allow processing in a timely manner as provided in the *Standards* and 30 CFR part 219; and
- (d) Comply with the procedures for appealed demands or orders, including meeting timeframes, supplying information, and using the appropriate format.

[62 FR 43064, Aug. 12, 1997, as amended at 67 FR 19112, Apr. 18, 2002]

§ 227.600 What automated verification functions may a State perform?



Automated verification involves systematic monitoring of production and royalty reports to identify and resolve reporting or payment discrepancies. States may perform the following:

- (a) Automated comparison of sales volumes reported by royalty reporters to sales and transfer volumes reported by production reporters. If you request delegation of automated comparison of sales and production volumes, you must perform at least the following functions:
 - (1) Performing an initial sales volume comparison between royalty and production reports;
 - (2) Performing subsequent comparisons when reporters adjust royalty or production reports;
 - (3) Checking unit prices for reasonable product valuation based on reference price ranges MMS provides;
 - (4) Resolving volume variances using written correspondence, telephone inquiries, or other media;
 - (5) Maintaining appropriate file documentation to support case resolution; and
 - (6) Issuing orders to correct reports or payments;
- (b) Any one or more of the following additional automated verification functions:
 - (1) Verifying compliance with lease financial terms, such as payment of rent, minimum royalty, and advance royalty;
 - (2) Identifying and resolving improper adjustments;
 - (3) Identifying late payments and insufficient estimates, including calculating interest owed to MMS and verifying payor-calculated interest owed to MMS;
 - (4) Calculating interest due to a lessee or its designee for an adjustment or refund, including identifying overpayments and excessive estimates;

- (5) Verifying royalty rates; and
- (6) Verifying compliance with transportation and processing allowance limitations;
- (c) Issuing notices and bills associated with any of the functions under paragraphs (a) and (b) of this section; and
- (d) Providing assistance to MMS for any of these delegated functions on appealed demands or orders, including meeting timeframes, supplying information, using the appropriate format, taking remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

§ 227.601 What are a State's responsibilities if it performs automated verification?



To perform automated verification of production reports or royalty reports, you must:

- (a) Verify through research and analysis all identified exceptions and prepare the appropriate billings, assessment letters, warning letters, notification letters, Lease Problem Reports, other internal forms required, and correspondence required to perform any required follow-up action for each function, as specified in the *Standards* or your delegation agreement;
- (b) Resolve and respond to all production reporter or royalty reporter inquiries;
- (c) Maintain all documentation and logging procedures as specified in the *Standards* or your delegation agreement;
- (d) Access well, lease, agreement, and production reporter or royalty reporter reference data from MMS and provide updated information to MMS; and
- (e) Comply with procedures for appealed demands and orders, including meeting time frames, supplying information, and using the appropriate format.

§ 227.700 What enforcement documents may a State issue in support of its delegated function?



This section explains what enforcement actions you may take as part of your delegated functions.

- (a) You may issue demands, subpoenas, and orders to perform restructured accounting, including related notices to lessees and their designees. You also may enter into tolling agreements under section 15(d)(1) of the Act, 30 U.S.C. 1725(d)(1).
- (b) When you issue any enforcement document you must comply with the requirements of section 115 of the Act, 30 U.S.C. 1725.
- (c) When you issue a demand or enter into a tolling agreement under section 15(d)(1) of the Act, 30 U.S.C. 1725(d)(1), the highest State official having ultimate authority over the collection of royalties or the State official to whom that authority has been delegated must sign the demand or tolling agreement.
- (d) When you issue a subpoena or order to perform a restructured accounting you must:
 - (1) Coordinate with MMS to ensure identification of issues that may concern more than one State before you issue subpoenas and orders to perform restructured accounting; and

(2) Ensure that the highest State official having ultimate authority over the collection of royalties signs any subpoenas and orders to perform restructured accounting, as required under section 115 of the Act, 30 U.S.C. 1725. This official may not delegate signature authority to any other person.

Performance Review



§ 227.800 How will MMS monitor a State's performance of delegated functions?



This section explains MMS's procedures for monitoring your performance of any of your delegated functions.

(a) A monitoring team of MMS officials will annually review your performance of the delegated functions and compliance with your delegation agreement, the *Standards*, and 30 U.S.C. 1735, including conducting fiscal examination to verify your costs for reimbursement.

(b) The monitoring team also will:

(1) Periodically review your statistical reports required under §227.200(e) to verify your accuracy, timeliness, and efficiency;

(2) Check for timely transmittal of production report or royalty report information to MMS and other affected agencies, as applicable, to allow for proper disbursement of funds and processing of information;

(3) Coordinate on-site visits and Office of the Inspector General, General Accounting Office, and MMS audits of your performance of your delegated functions; and

(4) Maintain reports of its monitoring activities.

§ 227.801 What if a State does not adequately perform a delegated function?



If your performance of the delegated function does not comply with your delegation agreement, or the *Standards*, or if MMS finds that you can no longer meet the statutory requirements under §227.106, then MMS may:

(a) Notify you in writing of your noncompliance or inability to comply. The notice will prescribe corrective actions you must take, and how long you have to comply. You may ask MMS for an extension of time to comply with the notice. In your extension request you must explain why you need more time; and

(b) If you do not take the prescribed corrective actions within the time that MMS allows in a notice issued under paragraph (a) of this section, then MMS may:

(1) Initiate proceedings under §227.802 to terminate all or a part of your delegation agreement;

(2) Withhold compensation provided to you under §227.112; and

(3) Perform the delegated function, before terminating or without terminating your delegation agreement, including, but not limited to, issuing a demand or order to a Federal lessee, or its designee, or any other person when:

- (i) Your failure to issue the demand or order would result in an underpayment of an obligation due MMS; and
- (ii) The underpayment would go uncollected without MMS intervention.

§ 227.802 How will MMS terminate a State's delegation agreement?



This section explains the procedures MMS will use to terminate all or a part of your delegation agreement:

- (a) MMS will notify you in writing that it is initiating procedures to terminate your delegation agreement;
- (b) MMS will provide you notice and opportunity for a hearing under §227.803 of this part;
- (c) The MMS Director, with concurrence from the Secretary, will decide whether to terminate your delegation agreement.
- (d) After the hearing, MMS may:
 - (1) Terminate your delegation agreement; or
 - (2) Allow you 30 days to correct any remaining deficiencies. If you do not correct the deficiency within 30 days, MMS will terminate all or a part of your delegation agreement.
- (e) MMS will determine the date your agreement is terminated and will notify you of that date in writing. MMS will determine the termination date based on the number of delegated functions and the impact of the termination on all affected parties.

§ 227.803 What are the hearing procedures for terminating a State's delegation agreement?



- (a) The MMS Director will appoint a hearing official to conduct one or more public hearings for fact finding and to determine any actions you must take to correct the noncompliance. The hearing official will not decide whether to terminate your delegation agreement;
- (b) The hearing official will contact you about scheduling a hearing date and location;
- (c) The hearing official will publish notice of the hearing in the Federal Register and other appropriate media within your State;
- (d) At the hearing, you will have an opportunity to present testimony and written information on your ability to perform your delegated functions as required under this part, your delegation agreement, and the *Standards*;
- (e) Other persons may attend the hearing and may present testimony and written information for the record;
- (f) MMS will record the hearing;
- (g) After the hearing, MMS may require you to submit additional information; and
- (h) Information presented at each public hearing will help MMS to determine whether:

- (1) You have complied with the terms and conditions of your delegation agreement; or
- (2) You have the capability to comply with the requirements under §227.106 of this part.

§ 227.804 How else may a State's delegation agreement terminate?



You may request MMS to terminate your delegation at any time by submitting your written notice of intent 6 months prior to the date on which you want to terminate. MMS will determine the date your agreement is terminated and will notify you of that date in writing. MMS will determine the termination date based on the number of delegated functions and the impact of the termination on all affected parties.

§ 227.805 How may a State obtain a new delegation agreement after termination?



After your delegation agreement is terminated, you may apply again for delegation by beginning with the proposal process under this part.

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PART 228—COOPERATIVE ACTIVITIES WITH STATES AND INDIAN TRIBES

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Authority: Sec. 202, Pub. L. 97–451, 96 Stat. 2457 (30 U.S.C. 1732).

Source: 49 FR 37348, Sept. 21, 1984, unless otherwise noted.

Subpart A—General Provisions



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§ 228.1 Purpose.



It is the purpose of cooperative agreements to effectively utilize the capabilities of the States and Indian tribes in developing and maintaining an efficient and effective Federal royalty management system as indicated at 30 U.S.C. 1701.

§ 228.2 Policy.



It shall be the policy of DOI to enter into cooperative agreements with States and Indian tribes to carry out audits and related investigations and enforcement actions whenever a State or tribe initiates a request to enter into an agreement and a finding is made that a State or tribe has the ability to carry out cooperative activities in a timely and efficient manner.

§ 228.3 Limitation on applicability.



As of the effective date of this rule, September 11, 1997, this part does not apply to Federal lands.

[62 FR 43091, Aug. 12, 1997]

§ 228.4 Authority.



The Secretary of the Interior is authorized to enter into cooperative agreements with States and Indian tribes (30 U.S.C. 1732) to share oil or gas royalty management information, and to carry out auditing and related investigation or enforcement activities in cooperation with the Secretary.

§ 228.5 Delegation of authority.



(a) Authority to enter into cooperative agreements to carry out audit and related investigation and enforcement activities with State and tribal governments has been delegated to the Director of the Minerals Management Service (MMS).

(b) Authority to enter into cooperative agreements with State and tribal governments to carry out inspection and related investigation and enforcement activities has been delegated to the Director of the Bureau of Land Management (BLM) and is not covered by this part.

(c) The entry into a cooperative agreement with either MMS or BLM will not affect the ability of a State or Indian tribe to choose to enter into such an agreement with the other agency. A State may enter into a delegation agreement (30 U.S.C. 1735) with MMS to perform certain functions without affecting its ability to enter into a cooperative agreement with either MMS or BLM, or both, to cooperate in the performance of those functions which are not delegated in this part.

§ 228.6 Definitions.



For the purposes of this part, terms shall have the same meaning as in 30 U.S.C. 1702. In addition, the

following definition shall apply:

Audit means an examination of the financial accounting and lease related records of the lessee and other interest holders, who by lease or contract pay royalties or are obligated to pay royalties, rents, bonuses or other payments on Federal or Indian leases. An examination is to be conducted in accordance with generally accepted audit standards as adopted by the American Institute of Certified Public Accountants. Activities to be examined which are considered to be an audit function include reconciliation of lease accounts under the Royalty Accounting System; records of lease activities related to Federal leases located within the boundaries of the State entering into a cooperative agreement; records of lease activities related to leases located on Indian lands, and the review and resolution of exceptions processed by the official accounting systems for royalty reporters and payors maintained by the MMS.

[49 FR 37348, Sept. 21, 1984, as amended at 67 FR 19112, Apr. 18, 2002]

§ 228.10 Information collection.



(a) The information collection requirements contained in this part have been approved by OMB under 44 U.S.C. 3501 *et seq.* and assigned OMB Clearance Number 1010–0087. The information collected will be used to prepare a cooperative agreement with a State or Indian tribe wishing to perform royalty audits. The information should be submitted voluntarily in order to enter into a cooperative agreement authorized by 30 U.S.C. 1732.

(b) Public reporting burden is estimated to average 136 hours for the preparation of the original request for consideration and application to enter into a cooperative agreement. Subsequent requests for renewal of the agreement may require about 40 hours for the preparation of an annual budget and work plan, and an estimated 8 hours per quarter for preparation of a reimbursement voucher and an audit progress report. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing burden, to the Information Collection Clearance Officer, Minerals Management Service, 381 Elden Street, Herndon, Virginia 22070; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project 1010–0087, Washington, DC 20503.

[57 FR 41868, Sept. 14, 1992, as amended at 58 FR 64903, Dec. 10, 1993]

Subpart B—Oil and Gas, General [Reserved]



Subpart C—Oil and Gas, Onshore



§ 228.100 Entering into an agreement.



(a) A State or Indian tribe may request the Department to enter into a cooperative agreement by sending a letter from the governor, tribal chairman, or other appropriate official with delegation authority, to the Director of MMS.

(b) The request for an agreement shall be in a format prescribed by MMS and should include at a minimum the following information:

(1) Type of eligible activities to be undertaken.

(2) Proposed term of the agreement.

(3) Evidence that the State or Indian tribe meets, or can meet by the time the agreement is in effect, the standards established by the Secretary for the types of activities to be conducted under the terms of the agreement.

(4) If the State is proposing to undertake activities on Indian lands located within the State, a resolution from the appropriate tribal council indicating their agreement to delegate to the State responsibilities under the terms of the cooperative agreement for activities to be conducted on tribal or allotted land.

(c) The eligible activities to be conducted under the terms of a cooperative agreement may be funded or unfunded by the Department. See §228.105 of this subpart for funding of cooperative agreements.

[49 FR 37348, Sept. 21, 1984, as amended at 56 FR 10512, Mar. 13, 1991]

§ 228.101 Terms of agreement.



(a) Agreements entered into under this part shall be valid for a period of 3 years and shall be renewable or additional consecutive 3-year periods upon request of the State or Indian tribe which is a party to the agreement.

(b) An agreement may be terminated at any time by mutual agreement and upon any terms and conditions as agreed upon by the parties.

(c) A State or Indian tribe may unilaterally terminate an agreement by giving a 120-day written notice of intent to terminate.

(d) The MMS may commence termination of an agreement by giving a 120-day written notice of intent to terminate. MMS shall provide the State or Indian tribe with the reasons for the proposed termination in writing if the termination is proposed because of alleged deficiencies by the State or Indian tribe in carrying out the provisions of the agreement. The State or Indian tribe will be given 60 days to respond to the notice of deficiencies and to provide a plan for correction of those deficiencies. No final action on termination shall be taken until any submission of the State or Indian tribe provided within the above prescribed 60 days has been reviewed by MMS for content or merit.

(e) Termination of a cooperative agreement shall not bar a later request by a State or Indian tribe to enter into a subsequent cooperative agreement.

§ 228.102 Establishment of standards.



The MMS, after consultation with States and Indian tribes, shall establish standards for carrying out the activities under the provisions of this part. The standards will be incorporated into the agreement and shall be no more stringent than those applicable to similar activities of the MMS. The States and Indian tribes shall coordinate their planned auditing activities with MMS. Where an MMS audit team is permanently assigned to a lessee/payor, contact by State and Indian tribal auditors with the lessee/payor shall be through the MMS auditor in residence.

§ 228.103 Maintenance of records.



(a) The State or Indian tribe entering into a cooperative agreement under this part must retain all records, reports, working papers, and any backup materials for a period specified by MMS. All records

and support materials must be available for inspection and review by appropriate personnel of the Department including the Office of the Inspector General.

(b) The State or Indian tribe shall maintain all books and records as may be necessary to assure compliance with the provisions of chapter 1, 48 CFR 31.107 and 48 CFR subpart 31.6 (Contracts with State, local, and federally recognized Indian tribal Governments).

[56 FR 10512, Mar. 13, 1991]

§ 228.104 Availability of information.



(a) Under the provisions of this part, information necessary to carry out the activities authorized under the terms of a cooperative agreement will be provided by DOI to the States and Indian tribes entering into such agreements. The information will consist of data provided from all relevant sources on a lease level basis for leases located within the boundaries of the State or Indian tribe which has entered into the agreement. This information will include any records or data held by the lessee or other person that have not been submitted to MMS, but that affect Federal lease interests and could be required to be submitted under the lease terms or Federal regulations.

(b) None of the provisions of this subpart should be construed as limiting information already being provided to Indian tribes and allottees regarding their lease interests.

(c) Information will be provided by MMS on a monthly basis and will include data on royalties, rents, and bonuses collected on the lease, volumes produced, sales made, value of products disposed of as a sale and used as a basis for royalty calculation, and other information necessary to allow the State or tribe to carry out its responsibilities under the cooperative agreement.

(d) Proprietary data that is made available to a State or tribe under provisions of 30 U.S.C. 1733 shall be subject to the constraints of 18 U.S.C. 1905. To receive proprietary data, the State or tribe must—

(1) Demonstrate what audit, investigation, or litigation under provisions of 30 U.S.C. 1734 is planned for or underway for which this data is essential;

(2) Demonstrate why this particular data is necessary; and

(3) Agree to safeguard proprietary data as provided.

§ 228.105 Funding of cooperative agreements.



(a)(1) The Department may, under the terms of the cooperative agreement, reimburse the State or Indian tribe up to 100 percent of the costs of eligible activities. Eligible activities will be agreed upon annually upon the submission and approval of a workplan and funding requirement.

(2) A cooperative agreement may be entered into with a State or Indian tribe, upon request, without a requirement for reimbursement of costs by the Department.

(b) All cooperative agreements under this part are subject to annual funding and the availability of appropriations specifically designated for the purpose of this part.

(c) The State or Indian tribe shall submit a voucher for reimbursement of eligible costs incurred within 30 days of the end of each calendar quarter. The State or Indian tribe must provide the Department a summary of costs incurred, for which the State or Indian tribe is seeking reimbursement, with the voucher.

[49 FR 37348, Sept. 21, 1984, as amended at 56 FR 10512, Mar. 13, 1991]

§ 228.107 Eligible cost of activities.



(a) If a cooperative agreement provides for Federal funding, only costs directly associated with eligible activities undertaken by the State or Indian tribe under the terms of a cooperative agreement will be eligible for reimbursement. Costs of services or activities which cannot be directly related to the support of activities specified in the agreement will not be eligible for Federal funding or for inclusion in the State's share or in the Indian tribe's share of funding that may be established in the agreement.

(b) Eligible costs are the cost of salaries and benefits associated with technical, support, and clerical personnel engaged in eligible activities; direct cost of travel, rentals, and other normal administrative activities in direct support of the project or projects; basic and specialized training for State and tribal participants; and cost of any contractual services which can be shown to be in direct support of the activities covered by the agreement. Each cooperative agreement shall contain detailed schedules identifying those activities and costs which qualify for funding and the procedures, timing, and mechanics for implementing Federal funding.

[49 FR 37348, Sept. 21, 1984, as amended at 56 FR 10512, Mar. 13, 1991]

§ 228.108 Deduction of civil penalties accruing to the State or tribe from the Federal share of a cooperative agreement.



As provided at 30 U.S.C. 1736, 50 percent of any civil penalty collected as a result of activities under a cooperative agreement will be shared with the State or Indian tribe performing the cooperative agreement; however, the amount of the civil penalty shared will be deducted from any Federal funding owed under that cooperative agreement. MMS shall maintain records of civil penalties collected and distributed to the States and tribes involved in cooperative agreements. Each quarterly payment of the Federal share of a cooperative agreement will be reduced by the amount of the civil penalties paid to the State or tribe during the prior quarter.

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PART 229—DELEGATION TO STATES

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Authority: 30 U.S.C. 1735.

Subpart A—General Provisions



Source: 49 FR 37350, Sept. 21, 1984, unless otherwise noted.

§ 229.1 Purpose.



The purpose of this part is to promote the effective utilization of the capabilities of the States in developing and maintaining an efficient and effective Federal royalty management system.

§ 229.2 Policy.



It shall be the policy of the Department of the Interior (DOI) to honor any properly made petition from the Chief Executive or other appropriate official of a State seeking delegation of authority under the provisions of 30 U.S.C. 1735 and to make a delegation to conduct audits and related investigations when the Secretary finds that the provisions of 30 U.S.C. 1735 have been complied with or can be complied with by a State seeking the delegation.

§ 229.3 Limitation on applicability.



As of the effective date of this rule, September 11, 1997, this part does not apply to Federal lands.

[62 FR 43091, Aug. 12, 1997]

§ 229.4 Authority.



The Secretary of the DOI is authorized under provisions of 30 U.S.C. 1735 to delegate authority to States to conduct audits and related investigations with respect to all Federal lands within a State, and to those Indian lands to which a State has received permission from the respective Indian tribe(s) or allottee(s) to carry out audit activities under a delegation from the Secretary.

§ 229.6 Definitions.



The definitions contained in 30 U.S.C. 1702 and in part 228 of this chapter apply to the activities carried out under the provisions of this part.

§ 229.10 Information collection requirements.

The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, because there are fewer than 10 respondents annually.

Subpart B—Oil and Gas, General [Reserved]**Subpart C—Oil and Gas, Onshore**

Authority: The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*).

Administration of Delegations**§ 229.100 Authorities and responsibilities subject to delegation.**

(a) All or part of the following authorities and responsibilities of the Secretary under the Act may be delegated to a State authority:

(1) Conduct of audits related to oil and gas royalty payments made to the MMS which are attributable to leased Federal or Indian lands within the State. Delegations with respect to any Indian lands require the written permission, subject to the review of the MMS, of the affected Indian tribe or allottee.

(2) Conduct of investigations related to oil and gas royalty payments made to the MMS which are attributable to leased Federal lands or Indian lands within the State. Delegation with respect to any Indian lands require the written permission, subject to the review of the MMS, of the affected Indian tribe or allottee. No investigation will be initiated without the specific approval of the MMS or the Secretary's designee and in accordance with the Departmental Manual.

(b) The following authorities and responsibilities are specifically reserved to the MMS and are not delegable under these regulations:

(1) Enforcement actions to assess and collect additional royalties identified as a consequence of audits, inspections, and investigations. These include all actions related to resolution of royalty obligations so identified, and the establishment and maintenance of payment performance bonds which may be required during the resolution process.

(2) Enforcement actions to collect civil penalties and interest charges related to findings of audits, inspections, and investigations.

(3) Administration of all appeals and all actions of the Department related to administrative and judicial litigation.

(4) Issuance of subpoenas.

(c) The provisions of this section do not limit the authority provided to the States by section 204 of the Act.

[49 FR 40026, Oct. 12, 1984]

§ 229.101 Petition for delegation.



(a) The governor or other authorized official of any State which contains Federal oil and gas leases, or Indian oil and gas leases where the Indian tribe and allottees have given the State an affirmative indication of their desire for the State to undertake certain royalty management-related activities on their lands, may petition the Secretary to assume responsibilities to conduct audits and related investigations of royalty related matters affecting Federal or Indian oil and gas leases within the State.

(b) A State may enter into a delegation of authority under this part without affecting a State's ability to enter into a cooperative agreement under Part 228 of this chapter.

(c) The Secretary shall carry out all factfinding and hearings he may decide are necessary in order to approve or disapprove the petition.

(d) In the event that the Secretary denies the petition, the Secretary must provide the State with the specific reasons for denial of the petition. The State will then have 60 days to either contest or correct specific deficiencies and to reapply for a delegation of authority.

[49 FR 37350, Sept. 21, 1984. Redesignated and amended at 49 FR 40025, Oct. 12, 1984]

§ 229.102 Fact-finding and hearings.



(a) Upon receipt of a petition for delegation from a State, the Secretary shall appoint a representative to conduct a hearing or hearings to carry out factfinding and determine the ability of the petitioning State to carry out the delegated responsibilities requested in accordance with the provisions of this part.

(b) The Secretary's representative, after proper notice in the Federal Register and other appropriate media within the State, shall hold one or more public hearings to determine whether:

(1) The State has an acceptable plan for carrying out delegated responsibilities and if it is likely that the State will provide adequate resources to achieve the purposes of this part (30 U.S.C. 1735);

(2) The State has the ability to put in place a process within 60 days of the grant of delegation which will assure the Secretary that the functions to be delegated to the State can be effectively carried out;

(3) The State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Secretary in accordance with the requirements at 30 U.S.C. 1735;

(4) The State's plan to carry out the delegated authority will be in accordance with the MMS standards; and

(5) The State's plan to carry out the delegated authority will be coordinated with MMS and the Office of Inspector General audit efforts to eliminate added burden on any lessee or group of lessees operating Federal or Indian oil and gas leases within the State.

(c) A State petitioning for a delegation of authority shall be given the opportunity to present testimony at

a public hearing.

[49 FR 37350, Sept. 21, 1984. Redesignated and amended at 49 FR 40025, Oct. 12, 1984]

§ 229.103 Duration of delegations; termination of delegations.



(a) Delegations of authority shall be valid for a period of 3 years and may be renewable for an additional consecutive 3-year period upon request of the State and after the appropriate factfinding required in §229.101. Delegations are subject to annual funding and the availability of appropriations specifically designated for the purpose of this part.

(b) A delegation of authority may be terminated at any time and upon any terms and conditions as mutually agreed upon by the parties.

(c) A State may terminate a delegation of authority by giving a 120-day written notice of intent to terminate.

(d) The Department may terminate a delegation of authority when it is determined, after opportunity for a hearing, that the State has failed to substantially comply with the provisions of the delegation of authority.

(e) No action to initiate formal hearing proceedings for termination shall be taken until the Department has notified the State in writing of alleged deficiencies and allowed the State 120 days to correct the deficiencies.

(f) Termination of a delegation shall not bar a subsequent request by a State to regain a delegation of authority.

[49 FR 37351, Sept. 21, 1984, as amended at 49 FR 40025, Oct. 12, 1984]

§ 229.104 Terms of delegation of authority.



Each delegation of authority under this part shall be in writing, shall incorporate all the requirements of this part, and shall specifically include:

(a) Terms obligating the State to conduct audit and investigative activities for a specific period of time;

(b) Terms describing the authorities and responsibilities reserved by the MMS, including, but not limited to, those specified under §229.100;

(c) Terms requiring the State to provide annual audit workplans to include the lease universe by company, or by individual lease accounts, a description of the audit work product(s) to be delivered, and the State resources (staff and otherwise) to be committed to the delegation;

(d) Terms requiring the State to notify the MMS of any changed circumstances which would affect the State's ability to carry out the terms of the delegation;

(e) Terms requiring coordination of delegated activities among the State, the MMS, and the land management agencies responsible for management of the leases included in the audit universe;

(f) Terms requiring the State to maintain and make available to the MMS all audit workpapers, documents, and information gained or developed as a consequence of activities conducted under the delegation;

(g) Terms obligating the State to adhere to all Federal laws, rules and regulations, and Secretarial determinations and orders relating to the calculation, reporting, and payment of oil and gas royalties, in all activities performed under the delegation.

[49 FR 40026, Oct. 12, 1984]

§ 229.105 Evidence of Indian agreement to delegation.



In the case of a State seeking a delegation of authority for Indian lands as well as Federal lands, the State petition to the Secretary must be supported by an appropriate resolution or resolutions of tribal councils joining the State in petitioning for delegation and evidence of the agreement of individual Indian allottees whose lands would be involved in a delegation. Such evidence shall specifically speak to having the State assume delegated responsibility for specific functions related to royalty management activities.

[49 FR 37351, Sept. 21, 1984. Redesignated at 49 FR 40025, Oct. 12, 1984]

§ 229.106 Withdrawal of Indian lands from delegated authority.



If at any time an Indian tribe or an individual Indian allottee determines that it wishes to withdraw from the State delegation of authority in relation to its lands, it may do so by sending a petition of withdrawal to the State. Once the petition has been received, the State shall within 30 days cease all activities being carried out under the delegation of authority on the lands covered by the petition for the tribe or allottee.

[49 FR 37351, Sept. 21, 1984. Redesignated at 49 FR 40025, Oct. 12, 1984]

§ 229.107 Disbursement of revenues.



(a) The additional royalties and late payment charges resulting from State audit work done under a delegation of authority shall be collected by MMS. The State's share of any amounts so collected shall be paid to the State in accordance with the provisions of 30 U.S.C. 191 and part 219 of this chapter.

(b) Amounts collected for Indian leases shall be transferred to the appropriate Indian accounts (designated Treasury accounts) managed by the Bureau of Indian Affairs at the earliest practicable date after such funds are received, but in no case later than the last business day of the month in which such funds are received.

(c) MMS shall provide to the State on a monthly basis, an accounting of collections resulting from audit work and enforcement actions resulting from a delegation of authority. Such accounting will identify collections broken down by royalties, penalties and interest paid.

[49 FR 40026, Oct. 12, 1984]

§ 229.108 Deduction of civil penalties accruing to the State or tribe under the delegation of authority.



Fifty percent of any civil penalty resulting from activities under a delegation of authority shall be shared

with the delegated State. However, the amount of the civil penalty shared will be deducted from any Federal funding owed under a delegation of authority under the provisions of 30 U.S.C. 1735. MMS shall maintain records of civil penalties collected and distributed to the States involved in 30 U.S.C. 1735 delegations. Each quarterly payment will be reduced by the amount of the civil penalties paid to the delegated State or tribe during the prior quarter.

[49 FR 37351, Sept. 21, 1984. Redesignated at 49 FR 40025, Oct. 12, 1984]

§ 229.109 Reimbursement for costs incurred by a State under the delegation of authority.



(a) The Department of the Interior (DOI) shall reimburse the State for 100 percent of the direct cost associated with the activities undertaken under the delegation of authority. The State shall maintain books and records in accordance with the standards established by the DOI and will provide the DOI, on a quarterly basis, a summary of costs incurred for which the State is seeking reimbursement. Only costs as defined under the provisions of 30 U.S.C. 1735 are eligible for reimbursement.

(b) The State shall submit a voucher for reimbursement of costs incurred within 30 days of the end of each calendar quarter.

[49 FR 37351, Sept. 21, 1984]

§ 229.110 Examination of the State activities under delegation.



(a) The Department will carry out an annual examination of the State's delegated activities undertaken under the delegation of authority.

(b) The examination required by this section will consist of a management review and a fiscal examination and evaluation to determine—

(1) That activities being carried out by the State under the delegation of authority meet the standards established by the Department and in particular the provisions of 30 U.S.C. 1735; and

(2) That costs incurred by the State under the delegation of authority are eligible for reimbursement by the Department.

[49 FR 37351, Sept. 21, 1984. Redesignated at 49 FR 40025, Oct. 12, 1984]

§ 229.111 Materials furnished to States necessary to perform delegation.



The MMS shall provide to the State all reports, files, and supporting materials within its possession necessary to allow the State to effectively carry out the terms of the delegation specified in §229.104.

[49 FR 40026, Oct. 12, 1984]

Delegation Requirements



Source: Sections 229.120 through 229.126 appear at 49 FR 40026, Oct. 12, 1984, unless otherwise noted.

§ 229.120 Obtaining regulatory and policy guidance.



All activities performed by a State under a delegation must be in full accord with all Federal laws, rules and regulations, and Secretarial and agency determinations and orders relating to the calculation, reporting, and payment of oil and gas royalties. In those cases when guidance or interpretations are necessary, the State will direct written requests for such guidance or interpretation to the appropriate MMS officials. All policy and procedural guidance or interpretation provided by the MMS shall be in writing and shall be binding on the State.

§ 229.121 Recordkeeping requirements.



(a) The State shall maintain in a safe and secure manner all records, workpapers, reports, and correspondence gained or developed as a consequence of audit or investigative activities conducted under the delegation. All such records shall be made available for review and inspection upon request by representatives of the Secretary and the Department's Office of Inspector General (OIG).

(b) The State must maintain in a confidential manner all data obtained from DOI sources or from payor or company sources under the delegation which have been deemed "confidential or proprietary" by DOI or a company or payor. In this regard, the State regulatory authority shall be bound by provisions of 30 U.S.C. 1733. MMS shall provide to the State guidelines for determining confidential and proprietary material.

(c) All records subject to the requirements of paragraph (a) must be maintained for a 6-year period measured from the end of the calendar year in which the records were created. All dispositions or records must be with the written approval of the MMS. Upon termination of a delegation, the State shall, within 90 days from the date of termination, assemble all records specified in subsection (a), complete all working paper files in accordance with §229.124, and transfer such records to the MMS.

(d) The State shall maintain complete cost records for the delegation in accordance with generally accepted accounting principles. Such records shall be in sufficient detail to demonstrate the total actual costs associated with the project and to permit a determination by MMS whether delegation funds were used for their intended purpose. All such records shall be made available for review and inspection upon request by representatives of the Secretary and the Department's Office of Inspector General (OIG).

§ 229.122 Coordination of audit activities.



(a) Each State with a delegation of authority shall submit annually to the MMS an audit workplan specifically identifying leases, resources, companies, and payors scheduled for audit. This workplan must be submitted 120 days prior to the beginning of each fiscal year. A State may request changes to its workplan (including the companies and leases to be audited) at the end of each quarter of each fiscal year. All requested changes are subject to approval by the MMS and must be submitted in writing.

(b) When a State plans to audit leases of a lessee or royalty payor for which there is an MMS or OIG resident audit team, all audit activities must be coordinated through the MMS or OIG resident supervisor. Such activities include, but are not limited to, issuance of engagement letters, arranging for entrance conferences, submission of data requests, scheduling of audit activities including site visits, submission of issue letters, and closeout conferences.

(c) The State shall consult with the MMS and/or OIG regarding resolution of any coordination problems

encountered during the conduct of delegation activities.

§ 229.123 Standards for audit activities.



(a) All audit activities performed under a delegation of authority must be in accordance with the "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" as issued by the Comptroller General of the United States.

(b) The following audit standards also shall apply to all audit work performed under a delegation of authority.

(1) *General standards*—(i) *Qualifications*. The auditors assigned to perform the audit must collectively possess adequate professional proficiency for the tasks required, including a knowledge of accounting, auditing, agency regulations, and industry operations.

(ii) *Independence*. In all matters relating to the audit work, the audit organization and the individual auditors must be free from personal or external impairments to independence and shall maintain an independent attitude and appearance.

(iii) *Due professional care*. Due professional care is to be used in conducting the audit and in preparing related reports.

(iv) *Quality control*. The State governments must institute quality control review procedures to ensure that all audits are performed in conformity with the standards established herein.

(2) *Examination and evaluation standards*—*Standards and requirements for examination and evaluation*. Auditors should be alert to situations or transactions that could be indicative of fraud, abuse, or illegal acts with respect to the program. If such evidence exists, auditors should forward this evidence to MMS. The MMS will contact the appropriate Federal law enforcement agencies. The scope of examinations are to be governed by the principle of a justifiable relationship between cost and benefit as determined by the auditor or audit supervisor. Audit procedures should reflect the most efficient method of obtaining the requisite degree of satisfaction. The auditor should determine, to the extent possible, the effect on royalty reporting of the non-arms'-length nature of related party transactions, such as transfers of oil to refinery units affiliated with the producer. A review should be made of compliance with the appropriate laws and regulations applicable to program operations. MMS shall issue guidelines as to the definition and nature of arms'-length and non-arms'-length transactions for use in carrying out delegated audit activities.

(3) *Standards of reporting*. (i) Written audit reports are to be submitted to the appropriate MMS officials at the end of each field examination.

(ii) A statement in the auditors' report that the examination was made in accordance with the generally accepted program audit standards (including the applicable General Accounting Office (GAO) standards) for royalty compliance audits should be in the appropriate language to indicate that the audit was made in accordance with this statement of standards.

(iii) The auditor's report should contain a statement of positive assurance on those items tested and negative assurance on those items not tested. It should also include all instances of noncompliance and instances or indications of fraud, abuse, or illegal acts found during or in connection with the audit.

(iv) The auditor's report should contain any other material deficiency identified during the audit not covered in paragraph (b)(3)(iii) of this section.

(v) When factors external to the program and to the auditor restrict the audit or interfere with the auditor's ability to form objective opinions and conclusions (such as denial of access to information by a company), the auditor is to notify the MMS. If the limitation is not removed, a description of the matter must be included in the auditor's report. MMS will take all legally enforceable steps necessary to seek information necessary to complete the audit.

(vi) If certain information is prohibited from general disclosure, the auditor's report should state the nature of the information omitted and the requirement that makes the omission necessary.

(vii) Written audit reports are to be prepared in the format prescribed by the MMS.

(viii) In instances where the extent of the audit findings or the amounts involved do not warrant it, a formal audit report need not be issued. In lieu of an audit report, a memorandum of audit findings will be prepared and placed on the case file.

[49 FR 40026, Oct. 12, 1984, as amended at 58 FR 64903, Dec. 10, 1993]

§ 229.124 Documentation standards.



Every audit performed by a State under a delegation of authority must meet certain documentation standards. In particular, detailed workpapers must be developed and maintained.

(a) *Workpapers* are defined to include all records obtained or created in performing an audit.

(b) Each audit performed varies in scope and detail. As a result, the audit team must determine the best presentation of the workpapers for a particular audit. The following general standards of workpaper preparation are consistent with the goal of achieving proper documentation while maintaining sufficient flexibility.

(1) All relevant information obtained orally must be promptly recorded in writing and incorporated in the workpapers.

(2) Workpapers must be complete and accurate in order to provide support for findings and conclusions.

(3) Workpapers should be clear and understandable without the need for supplementary oral explanations. The information they contain must be clear, complete, and concise, so that anyone using the workpapers will be able to readily determine their purpose, the nature and scope of the work done, and the conclusions drawn.

(4) Workpapers must be legible and as neat as practicable. They must meet standards which allow their use as evidence in judicial and administrative proceedings.

(5) The information contained in workpapers should be restricted to matters which are materially important and relevant to the objectives established for the assignment.

(6) Workpapers must be in sufficient detail to permit a subsequent independent execution of each audit procedure, assuming the target company retains its accounting documentation.

§ 229.125 Preparation and issuance of enforcement documents.



(a) Determinations of additional royalties due resulting from audit activities conducted under a delegation of authority must be formally communicated by the State, to the companies or other payors by an issue letter prior to any enforcement action. The issue letter will serve to ensure that all audit findings are accurate and complete by obtaining advance comments from officials of the companies or payors audited. Issue letters must be prepared in a format specified by the MMS, and transmitted to the company or payor. The company or payor shall be given 30 days from receipt of the letter to respond to the State on the findings contained in the letter.

(b) After evaluating the company or payor's response to the issue letter, the State shall draft a demand

letter which will be submitted with supporting workpaper files to the MMS for appropriate enforcement action. Any substantive revisions to the demand letter will be discussed with the State prior to issuance of the letter. Copies of all enforcement action documents shall be provided to the State by MMS upon their issuance to the company or payor.

§ 229.126 Appeals.



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(a) Appeals made pursuant to the rules and procedures at 30 CFR parts 243 and 290 related to demand letters issued by officers of the MMS for additional royalties identified under a delegation of authority shall be filed with the MMS for processing. The State regulatory authority shall, upon the request of the MMS, provide competent and knowledgeable staff for testimony, as well as any required documentation and analyses, in support of the lessor's position during the appeal process.

(b) An affected State, upon the request of the MMS, shall provide expert witnesses from their audit staff for testimony as well as required documentation and analyses to support the Department's position during the litigation of court cases arising from denied appeals. The cost of providing expert witnesses including travel and per diem is reimbursable under the provisions of a delegation of authority, at the Federal Government's existing per diem rates.

§ 229.127 Reports from States.



[top](#)

The State, acting under the authority of the Secretarial delegation, shall submit quarterly reports which will summarize activities carried out by the State during the preceding quarter of the year under the provisions of the delegation. The report shall include:

(a) A statistical summary of the activities carried out, e.g., number of audits performed, accounts reconciled, and other actions taken;

(b) A summary of costs incurred during the previous quarter for which the State is seeking reimbursement; and

(c) A schedule of changes which the State proposes to make from its approved plan.

[49 FR 37351, Sept. 21, 1984. Redesignated at 49 FR 40025, Oct. 12, 1984]

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Last updated: July 27, 2005

Public Law 97-451
97th Congress

An Act

To ensure that all oil and gas originated on the public lands and on the Outer Continental Shelf are properly accounted for under the direction of the Secretary of the Interior, and for other purposes.

Jan. 12, 1983
[H.R. 5121]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Oil and
Gas Royalty
Management
Act of 1982.

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Federal Oil and Gas Royalty Management Act of 1982".

30 USC 1701
note.

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UNPATENTED OIL PLACER CLAIMS

Sec. 401. Amendment of Mineral Lands Leasing Act of 1920.

ant to any action taken by the Secretary under this Act as a result of information provided to the Secretary by any person, the Secretary is authorized to pay to such person an amount equal to not more than 10 percent of such recovered amounts. The preceding sentence shall not apply to information provided by an officer or employee of the United States, an officer or employee of a State or Indian tribe acting pursuant to a cooperative agreement or delegation under this Act, or any person acting pursuant to a contract authorized by this Act.

NONCOMPETITIVE OIL AND GAS LEASE ROYALTY RATES

SEC. 114. The Secretary is directed to conduct a thorough study of the effects of a change in the royalty rate under section 17(c) of the Mineral Leasing Act of 1920 on: (a) the exploration, development, or production of oil or gas; and (b) the overall revenues generated by such change. Such study shall be completed and submitted to Congress within six months after the date of enactment of this Act.

Study.

30 USC 226.

Submittal to Congress.

TITLE II—STATES AND INDIAN TRIBES

APPLICATION OF TITLE

SEC. 201. This title shall apply only with respect to oil and gas leases on Federal lands or Indian lands. Nothing in this title shall be construed to apply to any lease on the Outer Continental Shelf.

30 USC 1731.

COOPERATIVE AGREEMENTS

SEC. 202. (a) The Secretary is authorized to enter into a cooperative agreement or agreements with any State or Indian tribe to share oil or gas royalty management information, to carry out inspection, auditing, investigation or enforcement (not including the collection of royalties, civil or criminal penalties or other payments) activities under this Act in cooperation with the Secretary, and to carry out any other activity described in section 108 of this Act. The Secretary shall not enter into any such cooperative agreement with a State with respect to an such activities on Indian lands, except with the permission of the Indian tribe involved.

30 USC 1732.

(b) Except as provided in section 203, and pursuant to a cooperative agreement—

(1) each State shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Federal lands within the State; and

(2) each Indian tribe shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Indian lands under the jurisdiction of such tribe. Information shall be made available under paragraphs (1) and (2) as soon as practicable after it comes into the possession of the Secretary. Effective October 1, 1983, such information shall be made available under paragraphs (1) and (2) not later than 30 days after such information comes into the possession of the Secretary.

Information availability.
Effective date.

(c) Any cooperative agreement entered into pursuant to this section shall be in accordance with the provisions of the Federal Grant and cooperative Agreement Act of 1977, and shall contain such

41 USC 501 note.

terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act, including, but not limited to, a limitation on the use of Federal assistance to those costs which are directly required to carry out the agreed upon activities.

INFORMATION

Trade secrets
and proprietary
and confidential
information,
availability.
30 USC 1733.

SEC. 203. (a) Trade secrets, proprietary and other confidential information shall be made available by the Secretary, pursuant to a cooperative agreement, to a State or Indian tribe upon request only if—

(1) such State or Indian tribe consents in writing to restrict the dissemination of the information to those who are directly involved in an audit or investigation under this Act and who have a need to know;

(2) such State or tribe accepts liability for wrongful disclosure;

(3) in the case of a State, such State demonstrates that such information is essential to the conduct of an audit or investigation or to litigation under section 204; and

(4) in the case of an Indian tribe, such tribe demonstrates that such information is essential to the conduct of an audit or investigation and waives sovereign immunity by express consent for wrongful disclosure by such tribe.

Liability for
wrongful
disclosure.

(b) The United States shall not be liable for the wrongful disclosure by any individual, State, or Indian tribe of any information provided to such individual, State, or Indian tribe pursuant to any cooperative agreement or a delegation, authorized by this Act.

(c) Whenever any individual, State, or Indian tribe has obtained possession of information pursuant to a cooperative agreement authorized by this section, or any individual or State has obtained possession of information pursuant to a delegation under section 205, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any department or agency thereof and the State or Indian tribe shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any department or agency thereof. No State or State officer or employee who receives trade secrets, proprietary information, or other confidential information under this Act may be required to disclose such information under State law.

STATE SUITS UNDER FEDERAL LAW

30 USC 1734.

SEC. 204. (a)(1) A State may commence a civil action under this section against any person to recover any royalty, interest, or civil penalty which the State believes is due, based upon credible evidence, with respect to any oil and gas lease on Federal lands located within the State.

(2)(A) No action may be commenced under paragraph (1) prior to 90 days after the State has given notice in writing to the Secretary of the payment required. Such 90-day limitation may be waived by the Secretary on a case-by-case basis.

(B) If, within the 90-day period specified in subparagraph (A), the Secretary issues a demand for the payment concerned, no action may be commenced under paragraph (1) with respect to such payment during a 45-day period after issuance of such demand. If,

during such 45-day period, the Secretary receives payment in full, no action may be commenced under paragraph (1).

(C) If the Secretary refers the case to the Attorney General of the United States within the 45-day period referred to in subparagraph (B) or within 10 business days after the expiration of such 45-day period, no action may be commenced under paragraph (1) if the Attorney General, within 45 days after the date of such referral, commences, and thereafter diligently prosecutes, a civil action in a court of the United States with respect to the payment concerned.

(3) The State shall notify the Secretary and the Attorney General of the United States of any suit filed by the State under this section.

(4) A court in issuing any final order in any action brought under paragraph (1) may award costs of litigation including reasonable attorney and expert witness fees, to any party in such action if the court determines such an award is appropriate.

(b) An action brought under subsection (a) of this section may be brought only in a United States district court for the judicial district in which the lease site or the leasing activity complained of is located. Such district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to require compliance or order payment in any such action.

(c)(1) Notwithstanding any other provision of law, any civil penalty recovered by a State under subsection (a) shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate.

(2) Any rent, royalty, or interest recovered by a State under subsection (a) shall be deposited in the Treasury of the United States in the same manner, and subject to the same requirements, as are applicable in the case of any rent, royalty, or interest collected by an officer or employee of the United States, except that such amounts shall be deposited in the Treasury not later than 10 days after receipt by the State.

Notification of
Secretary and
Attorney
General.

DELEGATION TO STATES

SEC. 205. (a) Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to conduct inspections, audits, and investigations to any State with respect to all Federal lands or Indian lands within the State; except that the Secretary may not undertake such a delegation with respect to any Indian lands, except with the permission of the Indian tribe allottee involved.

30 USC 1735.

(b) After notice and opportunity for a hearing, the Secretary is authorized to delegate such authorities and responsibilities granted under this section as the State has requested, if the Secretary finds that—

Hearing.

(1) it is likely that the State will provide adequate resources to achieve the purposes of this Act;

(2) the State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Secretary under this Act in accordance with the requirements of subsections (c) and (d) of this section; and

(3) such delegation will not create an unreasonable burden on any lessee,

with respect to the Federal lands and Indian lands within the State.

Regulations.

(c) The Secretary shall promulgate regulations which define those functions, if any, which must be carried out jointly in order to avoid duplication of effort, and any delegation to any State must be made in accordance with those requirements.

Standards.

(d) The Secretary shall by rule promulgate standards and regulations, pertaining to the authorities and responsibilities under subsection (a), including standards and regulations pertaining to:

- (1) audits performed;
- (2) records and accounts to be maintained; and
- (3) reporting procedures to be required by States under this section.

Such standards and regulations shall be designed to provide reasonable assurance that a uniform and effective royalty management system will prevail among the States. The records and accounts under paragraph (2) shall be sufficient to allow the Secretary to monitor the performance of any State under this section.

Hearing.

(e) If, after notice and opportunity for a hearing, the Secretary finds that any State to which any authority or responsibility of the Secretary has been delegated under this section is in violation of any requirement of this section or any rule thereunder, or that an affirmative finding by the Secretary under subsection (b) can no longer be made, the Secretary may revoke such delegation.

(f) The Secretary shall compensate any State for those costs which may be necessary to carry out the delegated activities under this section. Payment shall be made no less than every quarter during the fiscal year.

SHARED CIVIL PENALTIES

30 USC 1736.

SEC. 206. An amount equal to 50 per centum of any civil penalty collected by the Federal Government under this Act resulting from activities conducted by a State or Indian tribe pursuant to a cooperative agreement under section 202 or a State under a delegation under section 205, shall be payable to such State or tribe. Such amount shall be deducted from any compensation due such State or Indian tribe under section 202 or such State under section 205.

TITLE III—GENERAL PROVISIONS

SECRETARIAL AUTHORITY

Regulations.
30 USC 1751.

SEC. 301. (a) The Secretary shall prescribe such rules and regulations as he deems reasonably necessary to carry out this Act. (b) Rules and regulations issued to implement this Act shall be issued in conformity with section 553 of title 5 of the United States Code, notwithstanding section 553(a)(2) of that title.

Contracts.

(c) In addition to entering into cooperative agreements or delegation of authority authorized under this Act, the Secretary may contract with such non-Federal Government inspectors, auditors, and other persons as he deems necessary to aid in carrying out his functions under this Act and its implementation. With respect to his auditing and enforcement functions under this Act, the Secretary shall coordinate such functions so as to avoid to the maximum extent practicable, subjecting lessees, operators, or other persons to audits or investigations of the same subject matter by more than one auditing or investigating entity at the same time.

PUBLIC LAW 104-185—AUG. 13, 1996

FEDERAL OIL AND GAS ROYALTY
SIMPLIFICATION AND FAIRNESS ACT OF 1996

designee (with notice to the lessee who designated the designee) which—

“(A) asserts a specific, definite, and quantified obligation claimed to be due, and

“(B) specifically identifies the obligation by lease, production month and monetary amount of such obligation claimed to be due and ordered to be paid, as well as the reason or reasons such obligation is claimed to be due, but such term does not include any other communication or action by or on behalf of the Secretary or a delegated State;

“(27) ‘overpayment’ means any payment by a lessee or its designee in excess of an amount legally required to be paid on an obligation and includes the portion of any estimated payment for a production month that is in excess of the royalties due for that month;

“(28) ‘payment’ means satisfaction, in whole or in part, of an obligation;

“(29) ‘penalty’ means a statutorily authorized civil fine levied or imposed for a violation of this Act, any mineral leasing law, or a term or provision of a lease administered by the Secretary;

“(30) ‘refund’ means the return of an overpayment;

“(31) ‘State concerned’ means, with respect to a lease, a State which receives a portion of royalties or other payments under the mineral leasing laws from such lease;

“(32) ‘underpayment’ means any payment or nonpayment by a lessee or its designee that is less than the amount legally required to be paid on an obligation; and

“(33) ‘United States’ means the United States Government and any department, agency, or instrumentality thereof, the several States, the District of Columbia, and the territories of the United States.”.

SEC. 3. DELEGATION OF ROYALTY COLLECTIONS AND RELATED ACTIVITIES.

(a) GENERAL AUTHORITY.—Section 205 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735) is amended to read as follows:

30 USC 1735.

“SEC. 205. DELEGATION OF ROYALTY COLLECTIONS AND RELATED ACTIVITIES.

“(a) Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to:

“(1) conduct inspections, audits, and investigations;

“(2) receive and process production and financial reports;

“(3) correct erroneous report data;

“(4) perform automated verification; and

“(5) issue demands, subpoenas, and orders to perform restructured accounting, for royalty management enforcement purposes,

to any State with respect to all Federal land within the State.

“(b) After notice and opportunity for a hearing, the Secretary is authorized to delegate such authorities and responsibilities granted under this section as the State has requested, if the Secretary finds that—

“(1) it is likely that the State will provide adequate resources to achieve the purposes of this Act;

“(2) the State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Secretary under this Act in accordance with the requirements of subsections (c) and (d) of this section;

“(3) such delegation will not create an unreasonable burden on any lessee;

“(4) the State agrees to adopt standardized reporting procedures prescribed by the Secretary for royalty and production accounting purposes, unless the State and all affected parties (including the Secretary) otherwise agree;

“(5) the State agrees to follow and adhere to regulations and guidelines issued by the Secretary pursuant to the mineral leasing laws regarding valuation of production; and

“(6) where necessary for a State to have authority to carry out and enforce a delegated activity, the State agrees to enact such laws and promulgate such regulations as are consistent with relevant Federal laws and regulations

with respect to the Federal lands within the State.

“(c) After notice and opportunity for hearing, the Secretary shall issue a ruling as to the consistency of a State’s proposal with the provisions of this section and regulations under subsection (d) within 90 days after submission of such proposal. In any unfavorable ruling, the Secretary shall set forth the reasons therefor and state whether the Secretary will agree to delegate to the State if the State meets the conditions set forth in such ruling.

“(d) After consultation with State authorities, the Secretary shall by rule promulgate, within 12 months after the date of enactment of this section, standards and regulations pertaining to the authorities and responsibilities to be delegated under subsection (a), including standards and regulations pertaining to—

“(1) audits to be performed;

“(2) records and accounts to be maintained;

“(3) reporting procedures to be required by States under this section;

“(4) receipt and processing of production and financial reports;

“(5) correction of erroneous report data;

“(6) performance of automated verification;

“(7) issuance of standards and guidelines in order to avoid duplication of effort;

“(8) transmission of report data to the Secretary; and

“(9) issuance of demands, subpoenas, and orders to perform restructured accounting, for royalty management enforcement purposes.

Such standards and regulations shall be designed to provide reasonable assurance that a uniform and effective royalty management system will prevail among the States. The records and accounts under paragraph (2) shall be sufficient to allow the Secretary to monitor the performance of any State under this section.

“(e) If, after notice and opportunity for a hearing, the Secretary finds that any State to which any authority or responsibility of the Secretary has been delegated under this section is in violation of any requirement of this section or any rule thereunder, or that an affirmative finding by the Secretary under subsection (b) can no longer be made, the Secretary may revoke such delegation.

Regulations.

If, after providing written notice to a delegated State and a reasonable opportunity to take corrective action requested by the Secretary, the Secretary determines that the State has failed to issue a demand or order to a Federal lessee within the State, that such failure may result in an underpayment of an obligation due the United States by such lessee, and that such underpayment may be uncollected without Secretarial intervention, the Secretary may issue such demand or order in accordance with the provisions of this Act prior to or absent the withdrawal of delegated authority.

“(f) Subject to appropriations, the Secretary shall compensate any State for those costs which may be necessary to carry out the delegated activities under this Section. Payment shall be made no less than every quarter during the fiscal year. Compensation to a State may not exceed the Secretary’s reasonably anticipated expenditure for performance of such delegated activities by the Secretary. Such costs shall be allocable for the purposes of section 35(b) of the Act entitled ‘An act to promote the mining of coal, phosphate, oil, oil shale, gas and sodium on the public domain’, approved February 25, 1920 (commonly known as the Mineral Leasing Act) (30 U.S.C. 191 (b)) to the administration and enforcement of laws providing for the leasing of any onshore lands or interests in land owned by the United States. Any further allocation of costs under section 35(b) made by the Secretary for oil and gas activities, other than those costs to compensate States for delegated activities under this Act, shall be only those costs associated with onshore oil and gas activities and may not include any duplication of costs allocated pursuant to the previous sentence. Nothing in this section affects the Secretary’s authority to make allocations under section 35(b) for non-oil and gas mineral activities. All moneys received from sales, bonuses, rentals, royalties, assessments and interest, including money claimed to be due and owing pursuant to a delegation under this section, shall be payable and paid to the Treasury of the United States.

“(g) Any action of the Secretary to approve or disapprove a proposal submitted by a State under this section shall be subject to judicial review in the United States district court which includes the capital of the State submitting the proposal.

“(h) Any State operating pursuant to a delegation existing on the date of enactment of this Act may continue to operate under the terms and conditions of the delegation, except to the extent that a revision of the existing agreement is adopted pursuant to this section.”.

(b) CLERICAL AMENDMENT.—The item relating to section 205 in the table of contents in section 1 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) is amended to read as follows:

“Sec. 205. Delegation of royalty collections and related activities.”.

SEC. 4. SECRETARIAL AND DELEGATED STATES’ ACTIONS AND LIMITATION PERIODS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 114 the following new section:

“SEC. 115. SECRETARIAL AND DELEGATED STATES’ ACTIONS AND LIMITATION PERIODS. 30 USC 1724.

“(a) **IN GENERAL.**—The respective duties, responsibilities, and activities with respect to a lease shall be performed by the Secretary, delegated States, and lessees or their designees in a timely manner.

“(b) **LIMITATION PERIOD.**—

“(1) **IN GENERAL.**—A judicial proceeding or demand which arises from, or relates to an obligation, shall be commenced within seven years from the date on which the obligation becomes due and if not so commenced shall be barred. If commencement of a judicial proceeding or demand for an obligation is barred by this section, the Secretary, a delegated State, or a lessee or its designee (A) shall not take any other or further action regarding that obligation, including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty or the initiation, pursuit or completion of an audit with respect to that obligation; and (B) shall not pursue any other equitable or legal remedy, whether under statute or common law, with respect to an action on or an enforcement of said obligation.

“(2) **RULE OF CONSTRUCTION.**—A judicial proceeding or demand that is timely commenced under paragraph (1) against a designee shall be considered timely commenced as to any lessee who is liable pursuant to section 102(a) of this Act for the obligation that is the subject of the judicial proceeding or demand.

“(3) **APPLICATION OF CERTAIN LIMITATIONS.**—The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code, and section 42 of the Mineral Leasing Act (30 U.S.C. 226-2) shall not apply to any obligation to which this Act applies. Section 3716 of title 31, United States Code, may be applied to an obligation the enforcement of which is not barred by this Act, but may not be applied to any obligation the enforcement of which is barred by this Act.

“(c) **OBLIGATION BECOMES DUE.**—

“(1) **IN GENERAL.**—For purposes of this Act, an obligation becomes due when the right to enforce the obligation is fixed.

“(2) **ROYALTY OBLIGATIONS.**—The right to enforce any royalty obligation for any given production month for a lease is fixed for purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced.

“(d) **TOLLING OF LIMITATION PERIOD.**—The running of the limitation period under subsection (b) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including an action by the Secretary or a delegated State, other than the following:

“(1) **TOLLING AGREEMENT.**—A written agreement executed during the limitation period between the Secretary or a delegated State and a lessee or its designee (with notice to the lessee who designated the designee) shall toll the limitation period for the amount of time during which the agreement is in effect.

“(2) **SUBPOENA.**—

“(A) The issuance of a subpoena to a lessee or its designee (with notice to the lessee who designated the designee, which notice shall not constitute a subpoena to the lessee) in accordance with the provisions of subparagraph (B)(i) shall toll the limitation period with respect to the obligation which is the subject of a subpoena only for the period beginning on the date the lessee or its designee receives the subpoena and ending on the date on which (i) the lessee or its designee has produced such subpoenaed records for the subject obligation, (ii) the Secretary or a delegated State receives written notice that the subpoenaed records for the subject obligation are not in existence or are not in the lessee’s or its designee’s possession or control, or (iii) a court has determined in a final decision that such records are not required to be produced, whichever occurs first.

“(B)(i) A subpoena for the purposes of this section which requires a lessee or its designee to produce records necessary to determine the proper reporting and payment of an obligation due the Secretary may be issued only by an Assistant Secretary of the Interior or an Acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations), or the Director or Acting Director of the respective bureau or agency, and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such subpoena, but may not delegate such authority to any other person.

“(ii) A subpoena described in clause (i) may only be issued against a lessee or its designee during the limitation period provided in this section and only after the Secretary or a delegated State has in writing requested the records from the lessee or its designee related to the obligation which is the subject of the subpoena and has determined that—

“(I) the lessee or its designee has failed to respond within a reasonable period of time to the Secretary’s or the applicable delegated State’s written request for such records necessary for an audit, investigation or other inquiry made in accordance with the Secretary’s or such delegated State’s responsibilities under this Act; or

“(II) the lessee or its designee has in writing denied the Secretary’s or the applicable delegated State’s written request to produce such records in the lessee’s or its designee’s possession or control necessary for an audit, investigation or other inquiry made in accordance with the Secretary’s or such delegated State’s responsibilities under this Act; or

“(III) the lessee or its designee has unreasonably delayed in producing records necessary for an audit, investigation or other inquiry made in accordance with the Secretary’s or the applicable delegated State’s

responsibilities under this Act after the Secretary's or delegated State's written request.

“(C) In seeking records, the Secretary or the applicable delegated State shall afford the lessee or its designee a reasonable period of time after a written request by the Secretary or such delegated State in which to provide such records prior to the issuance of any subpoena.

“(3) MISREPRESENTATION OR CONCEALMENT.—The intentional misrepresentation or concealment of a material fact for the purpose of evading the payment of an obligation in which case the limitation period shall be tolled for the period of such misrepresentation or such concealment.

“(4) ORDER TO PERFORM RESTRUCTURED ACCOUNTING.—A)(i) The issuance of a notice under subparagraph (D) that the lessee or its designee has not substantially complied with the requirement to perform a restructured accounting shall toll the limitation period with respect to the obligation which is the subject of the notice only for the period beginning on the date the lessee or its designee receives the notice and ending 120 days after the date on which (I) the Secretary or the applicable delegated State receives written notice that the accounting or other requirement has been performed, or (II) a court has determined in a final decision that the lessee is not required to perform the accounting, whichever occurs first.

“(ii) If the lessee or its designee initiates an administrative appeal or judicial proceeding to contest an order to perform a restructured accounting issued under subparagraph (B)(i), the limitation period in subsection (b) shall be tolled from the date the lessee or its designee received the order until a final, nonappealable decision is issued in any such proceeding.

“(B)(i) The Secretary or the applicable delegated State may issue an order to perform a restructured accounting to a lessee or its designee when the Secretary or such delegated State determines during an audit of a lessee or its designee that the lessee or its designee should recalculate royalty due on an obligation based upon the Secretary's or the delegated State's finding that the lessee or its designee has made identified underpayments or overpayments which are demonstrated by the Secretary or the delegated State to be based upon repeated, systemic reporting errors for a significant number of leases or a single lease for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either significant underpayments or overpayments.

“(ii) The power of the Secretary to issue an order to perform a restructured accounting may not be delegated below the most senior career professional position having responsibility for the royalty management program, which position is currently designated as the ‘Associate Director for Royalty Management’, and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205 of this Act, the State, acting through the highest ranking State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such order to perform, which may not be delegated to any other person. An order to perform a restructured accounting shall—

“(I) be issued within a reasonable period of time from when the audit identifies the systemic, reporting errors;

“(II) specify the reasons and factual bases for such order;

“(III) be specifically identified as an ‘order to perform a restructured accounting’;

“(IV) provide the lessee or its designee a reasonable period of time (but not less than 60 days) within which to perform the restructured accounting; and

“(V) provide the lessee or its designee 60 days within which to file an administrative appeal of the order to perform a restructured accounting.

“(C) An order to perform a restructured accounting shall not mean or be construed to include any other action by or on behalf of the Secretary or a delegated State.

Notice.

“(D) If a lessee or its designee fails to substantially comply with the requirement to perform a restructured accounting pursuant to this subsection, a notice shall be issued to the lessee or its designee that the lessee or its designee has not substantially complied with the requirements to perform a restructured accounting. A lessee or its designee shall be given a reasonable time within which to perform the restructured accounting. Such notice may be issued under this section only by an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such notice, which may not be delegated to any other person.

“(e) TERMINATION OF LIMITATIONS PERIOD.—An action or an enforcement of an obligation by the Secretary or delegated State or a lessee or its designee shall be barred under this section prior to the running of the seven-year period provided in subsection (b) in the event—

“(1) the Secretary or a delegated State has notified the lessee or its designee in writing that a time period is closed to further audit; or

“(2) the Secretary or a delegated State and a lessee or its designee have so agreed in writing.

For purposes of this subsection, notice to, or an agreement by, the designee shall be binding on any lessee who is liable pursuant to section 102(a) for obligations that are the subject of the notice or agreement.

“(f) RECORDS REQUIRED FOR DETERMINING COLLECTIONS.—Records required pursuant to section 103 of this Act by the Secretary or any delegated State for the purpose of determining obligations due and compliance with any applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for the same period of time during which a judicial proceeding or demand may be commenced under subsection (b). If a judicial proceeding or demand is timely commenced, the record holder shall maintain such records until the final nonappealable decision in such judicial proceeding is made, or with respect to

that demand is rendered, unless the Secretary or the applicable delegated State authorizes in writing an earlier release of the requirement to maintain such records. Notwithstanding anything herein to the contrary, under no circumstance shall a record holder be required to maintain or produce any record relating to an obligation for any time period which is barred by the applicable limitation in this section. In connection with any hearing, administrative proceeding, inquiry, investigation, or audit by the Secretary or a delegated State under this Act, the Secretary or the delegated State shall minimize the submission of multiple or redundant information and make a good faith effort to locate records previously submitted by a lessee or a designee to the Secretary or the delegated State, prior to requiring the lessee or the designee to provide such records.

“(g) **TIMELY COLLECTIONS.**—In order to most effectively utilize resources available to the Secretary to maximize the collection of oil and gas receipts from lease obligations to the Treasury within the seven-year period of limitations, and consequently to maximize the State share of such receipts, the Secretary should not perform or require accounting, reporting, or audit activities if the Secretary and the State concerned determine that the cost of conducting or requiring the activity exceeds the expected amount to be collected by the activity, based on the most current 12 months of activity. This subsection shall not provide a defense to a demand or an order to perform a restructured accounting. To the maximum extent possible, the Secretary and delegated States shall reduce costs to the United States Treasury and the States by discontinuing requirements for unnecessary or duplicative data and other information, such as separate allowances and payor information, relating to obligations due. If the Secretary and the State concerned determine that collection will result sooner, the Secretary or the applicable delegated State may waive or forego interest in whole or in part.

“(h) **APPEALS AND FINAL AGENCY ACTION.**—

“(1) **33-MONTH PERIOD.**—Demands or orders issued by the Secretary or a delegated State are subject to administrative appeal in accordance with the regulations of the Secretary. No State shall impose any conditions which would hinder a lessee's or its designee's immediate appeal of an order to the Secretary or the Secretary's designee. The Secretary shall issue a final decision in any administrative proceeding, including any administrative proceedings pending on the date of enactment of this section, within 33 months from the date such proceeding was commenced or 33 months from the date of such enactment, whichever is later. The 33-month period may be extended by any period of time agreed upon in writing by the Secretary and the appellant.

“(2) **EFFECT OF FAILURE TO ISSUE DECISION.**—If no such decision has been issued by the Secretary within the 33-month period referred to in paragraph (1)—

“(A) the Secretary shall be deemed to have issued and granted a decision in favor of the appellant as to any nonmonetary obligation and any monetary obligation the principal amount of which is less than \$10,000; and

“(B) the Secretary shall be deemed to have issued a final decision in favor of the Secretary, which decision shall be deemed to affirm those issues for which the agency

rendered a decision prior to the end of such period, as to any monetary obligation the principal amount of which is \$10,000 or more, and the appellant shall have a right to judicial review of such deemed final decision in accordance with title 5 of the United States Code.

“(i) COLLECTIONS OF DISPUTED AMOUNTS DUE.—To expedite collections relating to disputed obligations due within the seven-year period beginning on the date the obligation became due, the parties shall hold not less than one settlement consultation and the Secretary and the State concerned may take such action as is appropriate to compromise and settle a disputed obligation, including waiving or reducing interest and allowing offsetting of obligations among leases.

“(j) ENFORCEMENT OF A CLAIM FOR JUDICIAL REVIEW.—In the event a demand subject to this section is properly and timely commenced, the obligation which is the subject of the demand may be enforced beyond the seven-year limitations period without being barred by this statute of limitations. In the event a demand subject to this section is properly and timely commenced, a judicial proceeding challenging the final agency action with respect to such demand shall be deemed timely so long as such judicial proceeding is commenced within 180 days from receipt of notice by the lessee or its designee of the final agency action.

“(k) IMPLEMENTATION OF FINAL DECISION.—In the event a judicial proceeding or demand subject to this section is timely commenced and thereafter the limitation period in this section lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement a final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund or credit.

“(l) STAY OF PAYMENT OBLIGATION PENDING REVIEW.—Any person ordered by the Secretary or a delegated State to pay any obligation (other than an assessment) shall be entitled to a stay of such payment without bond or other surety instrument pending an administrative or judicial proceeding if the person periodically demonstrates to the satisfaction of the Secretary that such person is financially solvent or otherwise able to pay the obligation. In the event the person is not able to demonstrate, the Secretary may require a bond or other surety instrument satisfactory to cover the obligation. Any person ordered by the Secretary or a delegated State to pay an assessment shall be entitled to a stay without bond or other surety instrument.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) is amended by inserting after the item relating to section 114 the following new item:

“Sec. 115. Secretarial and delegated States’ actions and limitation periods.”.

SEC. 5. ADJUSTMENT AND REFUNDS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by inserting after section 111 the following:

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 116 the following new item:

“Sec. 117. Alternatives for marginal properties.”.

SEC. 8. APPLICABILITY.

(a) FOGRMA.—With respect to Federal lands, sections 202 and 307 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732 and 1755), are no longer applicable. The applicability of those sections to Indian leases is not affected.

30 USC 1732
note.

(b) OCSLA.—Effective on the date of the enactment of this Act, section 10 of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is repealed.

SEC. 9. INDIAN LANDS.

30 USC 1701
note.

The amendments made by this Act shall not apply with respect to Indian lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 as in effect on the day before the date of enactment of this Act shall continue to apply after such date with respect to Indian lands.

SEC. 10. PRIVATE LANDS.

30 USC 1701
note.

This Act shall not apply to any privately owned minerals.

SEC. 11. EFFECTIVE DATE.

30 USC 1701
note.

Except as provided by section 115(h), section 111(h), section 111(k)(5), and section 117 of the Federal Oil and Gas Royalty Management Act of 1982 (as added by this Act), this Act, and the amendments made by this Act, shall apply with respect to the production of oil and gas after the first day of the month following the date of the enactment of this Act.

SEC. 12. SAVINGS CLAUSE.

30 USC 1701
note.

Nothing in this Act shall be construed to give a State a property right or interest in any Federal lease or land.

Approved August 13, 1996.

LEGISLATIVE HISTORY—H.R. 1975:

HOUSE REPORTS: No. 104–667 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):

July 16, considered and passed House.

Aug. 2, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Aug. 13, Presidential remarks and statement.

One Hundred Fourth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Wednesday,
the third day of January, one thousand nine hundred and ninety-six*

An Act

To make technical corrections in the Federal Oil and Gas Royalty Management
Act of 1982.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. TECHNICAL CORRECTIONS.

The Federal Oil and Gas Royalty Management Act of 1982
is amended as follows:

(1) In section 3(25)(B) strike the word "provision" and insert
in lieu thereof the word "provisions".

(2) In the second sentence of section 115(l) insert the word
"so" before the word "demonstrate".

(3) In the first sentence of section 111(i) insert the word
"not" after the word "shall".

(4) In the first sentence of section 111(j) strike the word
"rate" and insert in lieu thereof the word "date".

(5) In the third and fourth sentences of section 111(j)
strike the word "owned" and insert in lieu thereof the word
"owed".

(6) In the third sentence of section 111(k)(4) strike the
word "dues" and insert in lieu thereof the word "due".

(7) In section 117(b)(1)(C) strike the word "it" and insert
in lieu thereof the word "its".

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

